The court decreed that the arrest of the ship be vacated, and the libelants appealed. *Held*, that the decree be reversed. *The Pesaro*, U. S. Sup. Ct., October Term, 1920, No. 317.

For a discussion of the principles involved in these cases see NOTES, page 773, *supra*.

ANIMALS — DAMAGE TO PERSONS AND CHATTELS BY ANIMALS — INJURY TO PERSON BY COW ON LAND ADJACENT TO HIGHWAY. — The defendant's cow, while being driven along the highway without negligence, escaped from his control, entered land adjoining the highway belonging to the plaintiff's brother, and knocked the plaintiff down. There was no *scienter*. *Held*, that the plaintiff cannot recover. *Street* v. *Craig*, 56 D. L. R. 105.

This case emphasizes the distinction between an injury caused by failure to restrain an animal and one caused by driving animals along the highway. Had the same injury occurred through the escape of the cow from an enclosure, the plaintiff would have recovered. *Troth* v. *Wills*, 8 Pa. Super. Ct. 1. See *Decker* v. *Gammon*, 44 Me. 322. The courts are not agreed on the basis of such a recovery, but the better view is that it is the violation of the duty of restraint of animals, imposed on the owner by law to secure the interest of persons on their own land in security from invasion and injury by wandering animals. See 32 HARV. L. REV. 420. If this duty is violated, it seems immaterial that the person injured did not happen to be owner of the land invaded. But there is no such extraordinary duty on an owner driving his animal along the street. Then the injury is caused by the affirmative conduct, not the failure to restrain, and to this affirmative conduct the law applies the usual standard of due care. *Tillett* v. *Ward*, 10 Q. B. D. 17; *Hartford* v. *Brady*, 114 Mass. 466. The interest of the landowner to be safe from invasion yields to the many interests in the use of public ways, and he takes the risk of any injury resulting from a proper and non-negligent use of the highway. *Brown* v. *Collins*, 53 N. H. 442.

ANIMALS — *SCIENTER* — LIABILITY FOR ATTACK BY MAD DOG KNOWN TO BE VICIOUS BUT NOT KNOWN TO BE MAD. — The defendant owned a dog which he knew to be vicious. Unknown to the defendant the dog became afflicted with rabies and bit the daughter of the plaintiffs, causing her death by hydrophobia. The plaintiffs sue for loss of services. *Held*, that the plaintiffs recover. *Clinkenbeard* v. *Reinert*, 225 S. W. 667 (Mo.).

For a discussion of the principles involved in this case, see NOTES, page 770, *supra*.

APPEAL AND ERROR — DETERMINATION AND DISPOSITION OF CAUSE — JOINT ASSIGNMENT OF ERROR NOT AFFECTING ALL THE APPELLANTS. — A directed verdict for the defendant was error as to one of the several plaintiffs. There was a joint assignment of error. *Held*, that the judgment be affirmed. *Dolbear* v. *Gulf Production Co.*, 268 Fed. 737 (Circ. Ct. App., 5th Circ.).

The common-law rule was that if a joint assignment of error was bad as to any party it was bad as to all. *Levy* v. *South Omaha Savings Bank*, 57 Neb. 312, 77 N. W. 769; *Helms* v. *Cook*, 62 Ind. App. 629, 111 N. E. 632; *Hancock* v. *Hullett*, 203 Ala. 272, 82 So. 522. The rule has sometimes been specifically changed by statute. *Manweiler* v. *Truman*, 125 N. E. 412 (Ind.). See 1917 IND. ACTS, c. 143, § 4. Similarly, a joint demurrer was overruled under common-law practice if the pleading was good as to any party. *Miller* v. *Rapp*, 135 Ind. 614, 34 N. E. 981. See *Boyd* v. *Mutual Fire Ass'n*, 116 Wis. 155, 175, 90 N. W. 1086, 1093. Also a single demurrer to several counts or pleas was overruled if one count or plea was good. *Chambers* v. *Lathrop*, Morris (Ia.), 102; *Farmers & Merchants Insurance Co.* v. *Menz*, 63 Ill. 116. But there was

some dissent from this rule. *Gearhart* v. *Olmstead*, 7 Dana (Ky.), 441; *Tittle* v. *Bonner*, 53 Miss. 578. The better view is that such demurrers should be taken distributively and ruled on as to each party or as to each count or plea. See *South Eastern Railway Co.* v. *Railway Commissioners*, 6 Q. B. D. 586, 605. A like rule as to joint assignments of error might well be adopted. Moreover the court was not called upon to decide this case as a matter of common law, for the amended Judicial Code provides that judgment in appellate courts shall be given "without regard to technical errors, defects, or exceptions which do not affect the substantial rights of the parties." See 40 STAT. AT L. 1181. As long as judges accomplish actual injustice by clinging to the antiquated technicalities of common-law pleading in the face of remedial legislation, popular distrust of law and the courts will increase. See Roscoe Pound, "The Causes of Popular Dissatisfaction with the Administration of Justice," 29 REP. AM. BAR ASS'N, 395, 405.

BANKRUPTCY — ACTS OF BANKRUPTCY — APPOINTMENT OF RECEIVER — MEANING OF "INSOLVENCY." — Upon a petition in involuntary bankruptcy on the ground that a receiver had been placed in charge of the debtor's property, it appeared that the state court had appointed the receiver because the debtor was insolvent, in that it could not meet its obligations as they fell due. It also appeared that the debtor was insolvent in fact, in that all its liabilities exceeded all its assets. *Held*, that the debtor be adjudicated a bankrupt. *In re Sedalia Farmers Co-op. Packing & Produce Co.*, 268 Fed. 898 (Dist. Ct., W. D. Mo.).

Section 3 a (4) of the Bankruptcy Act provides that the debtor has committed an act of bankruptcy if " . . . being insolvent, . . . because of insolvency a receiver or trustee has been put in charge of his property under the laws of a state. . . ." Section 1 a (15) provides that a person shall be deemed insolvent if the aggregate of his property is insufficient to pay his debts. Previous cases have held that the Act requires that the state appointment of a receiver be made because of insolvency in the above sense. *In re Golden Malt Cream Co.*, 164 Fed. 326; *In re Edward Ellsworth Co.*, 173 Fed. 699. It was the unfortunate result of these cases that, by inducing a creditor to file a carefully worded bill in a state court, a hopelessly insolvent debtor could have his estate administered in that court and thus evade many of the wholesome provisions of the Federal Act. Such an evasion was even more simple under the original Act, for it was not until the Amendment of 1903 that the words quoted above were inserted in section 3 a. See 32 STAT. AT L., c. 487. It seems clear that it was the purpose of the Amendment to preclude such evasions, and that the principal case is correct in giving effect to that purpose. It may be noted in support of this view that where the word "insolvency" is used in reference to the action of state courts, it is more reasonable to give it the meaning adopted by those courts than to insist on the definition in the Act. See Putnam, J., dissenting, in *In re Butler & Co.*, 207 Fed. 705, 715.

CONFLICT OF LAWS — REMEDIES: PROCEDURE — LIMITATION OF ACTIONS. — As a defense to an action on a contract which provided that it should be governed by the laws of Spain, the defendant pleaded the Spanish Statute of Limitations. The action was not barred by the *lex fori*. The plaintiff demurred. *Held*, that the demurrer be sustained. *Dorff* v. *Taya*, 185 N. Y. Supp. 174.

It is almost axiomatic that in matters respecting the remedy, the law of the forum governs, and not the law of the place where the cause of action arose or the parties resided. See STORY, CONFLICT OF LAWS, 8 ed., 793. The limitation of actions being a matter of remedy, the statute of the forum governs. *Carrigan* v. *Semple*, 72 Tex. 306, 12 S. W. 178. In all common-law jurisdic-